

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: WHITE HOUSE BEACH, INC.

(Case No. 11510)

A hearing was held after due notice on January 5, 2015. The Board members present were: Mr. Dale Callaway, Mr. Jeff Hudson, Mr. John Mills, Mr. Norman Rickard, and Mr. Brent Workman.

Nature of the Proceedings

This is an application for a variance from the separation requirement between units in a mobile home park.

Findings of Fact

The Board found that the Applicant was seeking a variance of 4.5 feet from the twenty (20) feet separation requirement between units in a mobile home park. This application pertains to certain real property located south of Route 23 (Long Neck Road) and being north of West Harbor Drive and being Lot 608 within White House Beach a Mobile Home Park (911 Address: 35007 West Harbor Drive, Millsboro, DE); said property being identified as Sussex County Tax Map Parcel Number 2-34-30.00-6.00-Unit 45879.

1. The Board was given copies of the Application, a statement regarding the standards for relief, and a survey of the Property dated October 14, 2014.
2. The Board found that the Office of Planning and Zoning received one (1) letter in support of the Application and had not received any correspondence in opposition to the Application.
3. John Barwick was sworn in to testify about the Application.
4. The Board found that Mr. Barwick testified that the Property is unique because the manufactured home has a sliding glass door next to the front door but there are no steps or landing in front of the sliding glass door.
5. The Board found that Mr. Barwick testified that the existence of the sliding glass door posed a safety hazard.
6. The Board found that Mr. Barwick testified that the existing deck was constructed to provide a safe access to and from the existing manufactured home.
7. The Board found that Mr. Barwick testified that, if the dimensions deck would be reduced to comply with the Sussex County Zoning Code, the deck would be too narrow to provide for typical use of the deck such as use of the space for a barbeque.
8. The Board found that Mr. Barwick testified that the deck would have to be cut to an irregular shape in order to comply with the Sussex County Zoning Code and would restrict the owner's practical use of the Property.
9. The Board found that Mr. Barwick testified that the deck was built with no intention to violate the Sussex County Zoning Code.
10. The Board found that Mr. Barwick testified that the contractor made an oversight when constructing the deck which led to the encroachment.
11. The Board found that Mr. Barwick testified that the Applicant was not aware of the encroachment until notice of the violation was sent from the Planning & Zoning Department.
12. The Board found that Mr. Barwick testified that there should be no effect on neighboring properties.
13. The Board found that Mr. Barwick testified that the adjacent neighbor affected by the encroachment has no objection to the Application as evidenced by the letter of support received by the Office of Planning & Zoning.

14. The Board found that Mr. Barwick testified that the variance will not be detrimental to the public welfare.
15. The Board found that Mr. Barwick testified that the variance will represent the least modification possible of the regulation at issue.
16. The Board found that no parties appeared in support of or in opposition to the Application.
17. Based on the findings above and the testimony and evidence presented at the public hearing and the public record, which the Board found credible, persuasive, and un rebutted, the Board determined that the application met the standards for granting a variance. The findings below further support the Board's decision to approve the Application.
 - a. The Property is unique due to the unique angle of the Property as shown on the survey and the proximity of the neighbor's garage to the property line. The close proximity of the garage particularly creates an exceptional practical difficulty for the Applicant because its location restricts the Applicant's ability to construct the deck. The Applicant has demonstrated that the deck is needed to provide safe access to a sliding glass door on the home.
 - b. The Property cannot be developed in strict conformity with the Sussex County Zoning Code. The existing deck is a reasonable size and provides access to the dwelling and outdoor recreational space for the Applicant. If the deck were to be reduced in size to comply with the Sussex County Zoning Code, it would be irregularly shaped and too narrow to use as intended. As such, the variance is necessary to enable reasonable use of the Property.
 - c. The exceptional practical difficulty was not created by the Applicant. The Applicant did not place the garage on the neighboring property and the proximity of the garage to the property line has limited the Applicant's ability to construct a reasonably sized deck. The testimony also indicates that the Applicant relied on a contractor to install the deck and only learned of the encroachment after the deck was completed. The difficulty was certainly not something created by the Applicant.
 - d. The variance will not alter the essential character of the neighborhood nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare. No evidence was presented that the encroachment has altered the character of the neighborhood or somehow been detrimental to the neighborhood. Rather, the letter from the adjacent neighbor who would be affected by the variance indicates support of the relief requested.
 - e. The variance sought is the minimum variance necessary to afford relief and the variance requested represent the least modification possible of the regulation at issue. The Applicant has demonstrated that the variance requested will allow the existing deck to remain in its current location.

The Board granted the variance application finding that it met the standards for granting a variance.

Decision of the Board

Upon motion duly made and seconded, the variance application was approved. The Board Members in favor were Mr. Dale Callaway, Mr. Jeff Hudson, Mr. John Mills, Mr. Norman Rickard, and Mr. Brent Workman. No Board Members voted against the Motion to approve the variance application.

BOARD OF ADJUSTMENT
OF SUSSEX COUNTY



Dale Callaway
Chairman



If the use is not established within one (1)
year from the date below the application
becomes void.

Date March 3, 2015.